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Counsel for Debtor Cash Cloud Inc.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re

CASH CLOUD, INC.,
dba COIN CLOUD,

Debtor.

Case No. BK-23-10423-mkn

Chapter 11

CASH CLOUD, INC., dba COIN CLOUD,

Plaintiff,

v.

LUX VENDING, LLC d/b/a BITCOIN
DEPOT,

Defendant.

Adv. Case No. 23-01015-MKN

**EX PARTE APPLICATION FOR ORDER
SHORTENING TIME FOR HEARING ON
PLAINTIFF’S (1) MOTION FOR
TEMPORARY RESTRAINING ORDER;
AND (2) MOTION FOR PRELIMINARY
INJUNCTION**

Hearing Date: N/A

Hearing Time: N/A

Cash Cloud, Inc. d/b/a Coin Cloud (“Cash Cloud,” “Plaintiff,” or “Debtor”), debtor and debtor-in-possession in the above-captioned Chapter 11 case (the “Chapter 11 Case”), by and through its undersigned counsel, Fox Rothschild LLP, and The Jimmerson Law Firm, P.C., hereby files this *Ex Parte Application For Order Shortening Time For Hearing* (the “Application”) on Plaintiff’s (1) *Motion for Temporary Restraining Order* (the “Motion for TRO”) and (2) *Motion for Preliminary Injunction* (the “PI Motion”, together with the Motion for TRO, the “Motions”). This Application is made and based upon the following points and authorities, the *Declaration of Brett A. Axelrod* (the “Axelrod Declaration”) in support hereof and attached as **Exhibit A** hereto, the Attorney Information Sheet filed concurrently herewith, and the pleadings and papers on file in the above-captioned chapter 11 case, judicial notice of which is respectfully requested.

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1 WHEREFORE, for the reasons set forth herein, Fox respectfully requests that the Court hear
2 the Motions on an order shortening time, and grant such other and further relief as may be just and
3 proper.

4 Dated this 21st day of March, 2023.

5 **FOX ROTHSCHILD LLP**

6 By: /s/Brett A. Axelrod
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1 **POINTS AND AUTHORITIES**

2 **I.**

3 Plaintiff, by this Application, pursuant to Bankruptcy Rule 9006 and Rule 9006 of the Local
4 Bankruptcy Rules for the United States Bankruptcy Court, District of Nevada (the “Local Rules”),
5 seeks an order shortening time for notice and hearing for the Motions.

6 **The Relief is Authorized by Rule 9006 and Meets Due Process Requirements.**

7 Bankruptcy Rules 9006(c)(1) and (d) authorize a court to reduce the time for a hearing, and
8 a party to file an *ex parte* motion to shorten the time for a hearing. Bankruptcy Rule 9006(c)(1)
9 provides in relevant part:

10 In General. Except as provided in paragraph (2) of this subdivision,
11 when an act is required or allowed to be done at or within a specified
12 time by these rules or by a notice given thereunder or by order of court,
the court for cause shown may in its discretion with or without motion
or notice order the period reduced.

13 Fed. R. Bankr. P. 9006(c)(1).

14 Courts have generally acknowledged that such expedited relief does not violate due process
15 rights, *even if the motion to shorten time is made ex parte*. “Bankruptcy Rule 9006(c) permits the
16 bankruptcy court ‘for cause shown’ in its discretion, with or without motion or notice, to reduce the
17 notice period, and ex parte motions for material reductions in the notice period are routinely granted
18 by bankruptcy courts.” Hester v. NCNB Texas Nat’l Bank (In re Hester), 899 F.2d 361, 364 n. 3
19 (5th Cir. 1990); see also 10 Collier on Bankruptcy 9006.09 (16th ed. 2019 rev.); In re Gledhill, 76
20 F.3d 1070 (10th Cir. 1996).

21 Cause exists for the Court to shorten time on the Motions. This case—involving an
22 unambiguous violation of the automatic stay and tortious interference with contract and demonstrated
23 bad faith by Defendant—is a textbook example of the appropriate issuance of a TRO. As described
24 in the Motion for TRO, a TRO should be entered because: (1) there is a likelihood that Cash Cloud
25 will succeed on the merits of its claims; (2) Cash Cloud is likely to suffer irreparable harm without
26 the issuance of the requested injunctive relief; (3) the balance of hardships greatly favors the issuance
27 of the requested injunctive relief; and (4) the public interest would best be served by the issuance of
28 the requested injunction.

1 Further, as set forth in the PI Motion, without a preliminary injunction that would prohibit
2 Defendant from continuing to solicit Cash Cloud's hosts, through the use of false statements or
3 otherwise, Cash Cloud loses the benefit of the automatic stay and Cash Cloud's valuable exclusive
4 contracts with its hosts. On the other hand, Defendant would not be put at risk by the issuance of a
5 preliminary injunction. Simply put, Defendant would be playing by the same rules that everyone else
6 is expected to follow

7 Copies of the Motions and their related pleadings shall be served on counsel for Bitcoin
8 Depot, the Office of the United States Trustee and the parties that have filed requests for special
9 notice in the Chapter 11 Case.

10 **Counsel Has Conferred With the Notice Parties.**

11 Prior to filing this Motion, and pursuant to Local Rule 9006, Counsel consulted the parties as
12 shown on the Attorney Information Sheet For Proposed Order Shortening Time, filed concurrently
13 herewith and incorporated by reference herein.

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II.

CONCLUSION

WHEREFORE, for all of the foregoing reasons, Plaintiff respectfully requests that the Court hear the Motions on an expedited basis, and grant such other and further relief as may be just and proper.

Dated this 21st day of March, 2023.

FOX ROTHSCHILD LLP

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EXHIBIT A

DECLARATION AFFIRMING REQUESTED RELIEF

I, Brett A. Axelrod, declare under penalty of perjury that: I am competent to make this declaration under the laws of the United States and the State of Nevada; I have read the above Application for an Order Shortening Time; and the facts stated therein are true and correct to the best of my knowledge, information and belief.

DATED this 21st day of March 2023.

By /s/Brett A. Axelrod
BRETT A. AXELROD

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